

Minutes of the Board of Adjustment meeting held on Monday, May 12, 2008, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Rosi Haidenthaller, Chair
Joyce McStotts, Vice-Chair
Wendell Coombs
Jonathan Russell
Connie Howard
Ray Christensen, Senior Planner
G.L. Critchfield, Deputy City Attorney
Citizens

The Board met in the staff meeting at 5:15 and briefly reviewed the applications.

Ms. Haidenthaller opened the meeting at 5:30 and welcomed the public.

Ms. Haidenthaller explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and that financial issues are not considered a hardship.

APPROVAL OF MINUTES

Rosi Haidenthaller asked for additions or corrections to the minutes of April 14, 2008. Joyce McStotts made a motion to approve the minutes as corrected. Seconded by Jonathan Russell. Voice vote was taken. Minutes approved 5-0.

CASE #1353 - MAT SCHILLING - 6510 South Jefferson Street

Shelli Schilling was present to represent this request. Ray Christensen reviewed the location and request for an accessory building front and side yard setback variance at the property addressed 6510 South Jefferson Street located within the R-1-8 zone. This application was continued from the April 14, 2008 meeting giving the applicant an opportunity to revise the garage dimensions to be 26' X 35'. The applicant plans to construct a new garage which extends into the front yard and side yard setback areas. The zoning ordinance does not allow an accessory building to be constructed in the front yard and a minimum side yard setback of 8 feet is required and 20 feet total side yards. The applicant is proposing a 5 foot side yard setback and a total of 14.5 feet side yards setback.

Shelli Schilling, 6510 South Jefferson Street, she stated they have reduced the size of the garage and revised the requested setback variances. She explained there is a 9 foot separation between the garage and the home. She stated the home is setback 69.2 feet from the front property line and their neighbors are setback 32 feet and 43 feet. She stated her neighbors are in favor of this variance request.

No comments were made by the public.

Ms. Haidenthaller stated the lot has 5 sides and is unique in shape.

Jonathan Russell made a motion to grant the variance as requested based on the uniqueness of the lot size and shape. He commented the Schillings's have revised their request from the previous meeting in an attempt to better conform to the zoning regulations. Seconded by Wendell Coombs.

Call vote recorded by Ray Christensen.

<u>N</u>	Ms. McStotts
<u>A</u>	Ms. Haidenthaller
<u>A</u>	Mr. Coombs
<u>A</u>	Mr. Russell
<u>A</u>	Ms. Howard

Motion passed 4-1.

CASE 1354 - WHY'RD - 4284 South 300 West

Mike Burnett was present to represent this request. Ray Christensen reviewed the location and request for a sign height variance at the property addressed 4284 South 300 West located within the M-G-C zone. The sign code requires that when a nonconforming sign is changed, it must comply with the current sign code which allows 35 feet high above the freeway grade. The existing older sign is about 55 feet high. The planning staff did not find a permit and the building department does not keep plans for long periods of time. The applicant stated they need the 55 feet high for clearance above the existing sign to the south.

Mike Burnett, 4284 south 300 West, presented photos showing the existing sign as it relates to the sign to the south. He stated if they are required to reduce the sign to 35 feet, their sign will be blocked by the sign to the south and would be virtually useless.

Rosi Haidenthaller asked if there were any sign permits issued for this sign or was this property annexed into the city. Mr. Christensen responded this property was not annexed into the city and has been in the city for a long time. He stated the permit department did not have a permit on file for this property and the sign is an older sign. Mr. Burnett stated the original sign was installed by The Fountain of Youth business.

Mr. Coombs stated this sign has existed for at least 40 years if it was part of the Fountain of Youth business.

Ms. McStotts asked about the proposed sign. Mr. Burnett stated they would like to change out the light bulbs for an LED sign, but during the permit process it was discovered the height allowed for the sign is 35 feet because the sign is being modified. He stated the reason for leasing the property was because of the signage exposure. Mr. Burnett stated the top of the sign will be reduced to a smaller sign and the bottom of the sign will have an LED message. He stated the previous business, the Soccer Locker, is no longer occupying this property.

Mr. Burnett stated they are not requesting to raise the sign, but leave the sign at the existing height. Mr. Burnett stated the separation between this sign and the sign on the adjacent lot is approximately 75 feet.

Mr. Russell stated the issue for this sign is the exposure for motorists on the off-ramp. The sign is not an issue for the motorists on the freeway. Mr. Burnett responded that the adjacent sign will not be visible if this sign is required to be reduced to 35 feet for persons traveling southbound whether on the freeway, on the off-ramp, or on the on-ramp. He stated the next sign to the south, the Zim's sign, is about 20 feet higher than this sign.

Ms. Haidenthaller commented that the sign code was not as strict at the time many of these signs were constructed and the city would like to bring as many signs as possible into compliance with the current sign code. She stated this request is a hardship because the

applicants purchased the property with the idea that they would be able to maintain the existing sign and have signage exposure.

Connie Howard questioned whether the 55 foot height is necessary and if it could be reduced somewhat. She stated when you drive on the freeway, there is sign after sign after sign and you can't see one sign until you pass the other sign.

Ms. Haidenthaller commented that it did not make sense to have a sign be in compliance if it is not visible.

Ms. Howard stated, in her opinion, the sign would be visible with the reduced height. Ms. Haidenthaller responded the signs are too close together to be visible with the reduced height.

Mr. Burnett stated some of the benefits of having an electronic message sign is that 5% of all the advertising time must be donated for public service messages and this sign could potentially be used as an Amber Alert sign. He stated they have a 10 year lease on this property and the property has been abandoned for quite some time.

No comments were made from the public.

Wendell Coombs stated some of the issues to consider, is the freeway was rebuilt several years ago and the city has allowed other signs to be taller because of change in freeway grade and sound walls being installed along the freeway; however, that may not necessarily be the case in this situation. He stated that he does see a hardship associated with this request because there are numerous signs along the freeway that would obstruct the view of this sign. He stated this sign has existed for at least 40 years.

Mr. Coombs made a motion to grant the variance based on the hardship being that it would take away the visibility of the sign and gives the property owner some rights that they expected when they leased the property for their business. This motion died for lack of a second.

Connie Howard made a motion to deny the variance based on the fact that one of the objectives of the city is to bring nonconforming signs into compliance with the current code when changes are made to the sign. She stated the sign has existed for a long time, but a 20 foot height variance is an extreme case and is not good for the community at large to have a sign on the freeway even if it was existing for 40 years to continue to exist at that height. Jonathan Russell seconded the variance.

Call vote recorded by Ray Christensen.

<u>N</u>	Ms. McStotts
<u>N</u>	Ms. Haidenthaller
<u>N</u>	Mr. Coombs
<u>A</u>	Mr. Russell
<u>A</u>	Ms. Howard

Motion failed 3-2.

Joyce McStotts made a motion to grant a variance to the top of the first level of the sign, which is approximately a 14 foot variance. This would make the sign height to be approximately 49 feet high. This would allow the sign to be above the billboard sign, but not as high as was previously. There was a discussion regarding the various heights and visibility.

Mr. Coombs asked the applicant if he is willing to make this adjustment as motioned by Ms. McStotts. Mr. Burnett responded that they are struggling to decide whether to keep the property as it currently exists and it is very challenging. He stated they have 90 days from the beginning of the lease to decide whether or not the costs of improving the property justify the 10 year lease. That right is up at the end of May and they are evaluating the costs which are close to \$1,000,000 to bring the existing building up to code. If they are required to reduce the sign that would incur additional costs. He stated they wish to make this property a technology center that specializes in home theaters, and they may start offering solar uses and unlimited electric vehicles. He stated he would explore moving the sign to another location on the property if he is required to reduce the height, as opposed to having it hidden on the property at the current location. He stated they are attempting to improve a property that is an existing eye sore.

Ms. Haidenthaller asked if the sign is required to be reduced to 49 feet, could the sign be relocated on the property without needing a second variance. Mr. Christensen responded the issue is the height, and the sign could potentially be relocated on the property as long as it met the setback requirements.

Mr. Critchfield questioned the associated hardship if the sign were to be relocated. Ms. Haidenthaller questioned if the sign were to be relocated elsewhere on the property, would the same visibility hardship still exist. She asked if the sign could be 35 feet high somewhere else on the property and still be visible and not having the same visibility hardship.

Mr. Coombs stated the same problem will exist anywhere along the frontage of the freeway. Mr. Christensen stated further to the north the property the elevation is lower and, if the sign were moved further to the north, it would be at a lower elevation and may increase the distance from the adjacent sign but would also reduce the height. He stated the sign code allows freeway oriented signs to be at a height of 35 feet above the freeway grade.

Connie Howard stated if the sign code allows freeway signs to be 35 feet above the grade, the sign height will be adjusted accordingly no matter where it is on the property.

Ms. Haidenthaller clarified the motion by Ms. McStotts stating that the variance would be for a 49 foot high sign at the existing location, which is a 14 foot variance. Seconded by Mr. Coombs. If the location of the sign is changed, a variance may need to be requested.

Call vote recorded by Ray Christensen.

<u>A</u>	Ms. McStotts
<u>A</u>	Ms. Haidenthaller
<u>A</u>	Mr. Coombs
<u>N</u>	Mr. Russell
<u>N</u>	Mr. Howard

Motion passed 3-2.

Ms. Haidenthaller clarified the variance granted is for a 49 foot high sign at the existing location.

CASE #1355 - WILLIAM & ELIZABETH VOSS - 5991 & 6001 South Belview Avenue

William and Elizabeth Voss were present to represent this request. Ray Christensen reviewed the location and request for lot width and lot area variances at the properties addressed 5991 South and 6001 South Belview Avenue located within the R-1-8 zone. The applicant plans to

subdivide the properties into 3 lots. The zoning regulations require 80 foot minimum lot width and 8,000 sq.ft. minimum per lot. The applicant is requesting variances for lot #9 at 56 feet wide and 6,400 sq.ft. area; and lot #10 at 61 feet and 6,972 sq.ft. area. The variance request for a 24 foot width on lot #9 and 1,600 sq.ft. area variance for 6,400 sq.ft.; and 19 foot lot width variance and 1,028 sq.ft. area for lot #10.

William Voss, 1968 Rio Court, stated he and his wife intend to move to the new lot, if approved. He stated they purchased the home on lot #9 (northern lot) 30 years ago and have had an organic garden at the back of the lot. They purchased lot #10 approximately 18 months ago. He stated they would like to subdivide the properties and create a new flag lot for them to build a new home for themselves. He stated if the variances are approved, the new home would abide by the required setbacks and they would still be able to have their organic garden. He stated the proposed variances would make the lot line straight which is not necessary, but makes it cleaner. He stated typically an 80 foot wide lot having a flag lot drive access of 28 feet, would leave a 52 foot lot width. This proposal would be sharing the drive access to the rear lot and would allow the two front lots to have widths of 56 feet and 61 feet.

Wendell Coombs stated Mr. Voss's site plan is slightly different than the site plan given to the Board. He asked Mr. Voss if he is proposing to remove the existing home on lot #9 and construct a new home. Mr. Voss responded in the affirmative. He stated he would keep the existing home on lot #10. He stated he is a builder and they would like to have a build a nice home for he and his wife. He stated their son is desiring to purchase lot #9 and construct a new home.

Ms. Haidenthaller asked what the "pink line" represents on the site plan. Mr. Voss responded the pink line represents where the lot lines would be for the two lots if the variance is not allowed for using the square footage of the driveway as part of the lot area and, the home would need to be pushed back further on the flag lot. He stated keeping the lot line further to the west would also better accommodate access in and out of the garage.

Ms. Haidenthaller asked if the property for the driveway to the flag lot belongs to the flag lot itself, or does it belong to the front lot. Mr. Christensen responded there are options for these situations. In some cases the driveway could be part of the front lot and have an easement across the front lot to the rear lot; or in some cases the driveway could be part of the flag lot (rear lot). The area of the drive access cannot be included in the area for the flag lot. The drive access is required to be 28 feet wide including 4 feet of landscaping on both sides of the 20 foot wide driveway.

Mr. Voss stated the site plan showing the "green line" would make the lots 8,016 sq.ft. and 8,013 sq.ft. He explained there is currently a 10 foot setback from the current property line and the home on lot #10.

Ms. Haidenthaller clarified that this request is for a 5 foot easement on lot #10 and the remaining easement would be on lot #9.

Mr. Voss stated he is requesting to have a flag lot on two narrow lots and that this proposal would not be impacting either of the lots as much as an 80 foot lot width and shouldn't be a problem. Mr. Voss stated the existing home and new homes would have the same setbacks as what currently exists on lot #9 and lot #10.

Mr. Coombs stated the lots in this area are long narrow lots.

Ms. Haidenthaller quoted Section 17.76.140(d): "The front lot which remains from the original parcel after the creation of the flag lot must meet the required lot area, lot width, and front and back and side yard requirements for the zone district in which it is located and all other applicable provisions of this title. The area of the access strip for the flag lot may not be included to compute the minimum required area of the front or original lot." She clarified that this would make lot #9 to be 6,400 sq.ft. not including the drive access.

Mr. Voss stated that the actual square footage to the green line is 8,571 including the easement. The square footage would be 6,400 sq.ft. if the easement is not included in the area. The square footage to the pink line for the lots is 8,016 and 8,015 sq.ft. and does not include the square footage of the drive access.

Elizabeth Voss stated because all three lots would be using the drive access, it would not be walled off just for their back use. It would retain the value of both of the other properties because they would be able to have a rear entry garage and the other property would be able to have a rear entry garage if they have use of the easement.

Mrs. Voss stated there is an option to leave the existing home on lot #9 and shift the garage from the end of the driveway over to make it a rear entry garage. She stated that the house footprint will be exactly where it currently exists.

Joyce McStotts asked who owns the lane along the back of the lot (known as Snow Lane or 450 East). Mr. Voss responded that he had the opinion that Murray City did not want them to do that, nor does the property owners. Mrs. Voss stated they have not asked the property owners along the lane their opinion because they thought Murray City did not want that option because of the fire engines, etc. Mr. Christensen stated the private lane is owned by the property owners along the lane.

Mrs. Voss stated they purchased lot #10 for the express purpose of having a home on the rear of the lots by creating a flag lot and their son would purchase lot #9. This would also allow them to retain their organic garden.

Connie Howard asked what hardship is associated with this variance(s) request. Mr. Voss responded the hardship is the narrowness of the lots and when they purchased the property they did not realize that would be a problem. He stated that there would be adequate room because there is 30 feet between the buildings for road to get to the rear lot. He stated the lots were created many years ago.

Mrs. Voss stated that they were told by the planning staff that this flag lot scenario makes more sense than utilizing the back lane (Snow lane) because of fire trucks, etc.

Ms. Haidenthaller stated the variance is for the lot width excluding the width of the drive access. She asked if the width of the easement can be considered as part of the lot. She clarified that there are actually four variances associated with this request, lot width variances and lot area variances on both lots #9 and #10. She stated this is a complicated request and there are various scenarios.

Connie Howard stated that there are options available for square footage of the lots by using the pink line rather than the green line as shown on the site plan. The requested variance of 6,400 sq.ft. for the north property is a large variance and generally the Board has not looked favorably to these large of requests. There is a hardship associated with both lots for the frontage widths of 70 and 75 feet and many of the homes in this area are long narrow lots. Ms.

Howard stated that there is an opportunity to increase the square footage with the properties, but the width is a hardship.

Connie Howard asked the area of the proposed rear lot. Mr. Voss responded the area would vary, depending on whether they use the pink lot line or the green lot line and the area would be about 14,000 sq.ft., half of which is utilized for their organic garden.

Connie Howard stated there is adequate area for three lots, but may need to be reconfigured to better fit the area requirements. Mr. Voss asked if they could modify their proposal so that the lots would be closer to the 8,000 sq.ft.

There was a discussion regarding various scenarios for moving the property lines in an attempt to get 8,000 sq.ft. lots.

No comments were made by the public.

Rosi Haidenthaller suggested moving the green line back to make the depths of the lots 131 feet, then the width of lot #9 would remain at 75 feet including the easement as part of the width of the lot but not part of the square footage of the lot; lot #10 would be 70 feet wide and 131 feet deep. The width of lot #9 would have a 5 foot lot width variance and lot #10 would have a 10 foot lot width variance.

Connie Howard made a motion to grant the variances as follows: that both lot #9 and #10 have a depth of 131 feet; a 5 foot front lot width variance on lot #9; a 10 foot front lot width variance on lot #10; the area for lot #9 to be 7,181 square feet (which is a 819 sq.ft. variance); and lot #10 will need to meet the 8,000 sq.ft. minimum. These variances are granted based on the fact that the lots in this area are all long narrow lots and this will allow for further development in the area, but stay consistent with the area and the zoning ordinance, and with the complexion of the community. Wendell Coombs seconded the motion.

Call vote recorded by Ray Christensen.

<u>A</u>	Ms. McStotts
<u>A</u>	Ms. Haidenthaller
<u>A</u>	Mr. Coombs
<u>A</u>	Mr. Russell
<u>A</u>	Ms. Howard

Motion passed 5-0.

Mr. Coombs commented that this is just one step in the process for having this project approved and the applicants will need to apply for a flag lot/boundary line adjustment with the planning commission.

Meeting adjourned.

Ray Christensen, AICP
Senior Planner